

CONDITIONAL EARLY SETTLEMENT OFFER
RELATING TO
REVISED NOTICE OF VIOLATION DATED FEBRUARY 28, 2007

Background: As stated in the enclosed Revised Notice of Violation dated February 28, 2007 (NOV), subdivisions (h) and (i) of California Water Code section 13385 requires the Regional Board to assess a mandatory minimum penalty of \$3,000 for serious and chronic effluent limit violations. The mandatory minimum penalty that the Regional Board is required to assess for the violations described in the NOV is \$12,000.

Potential Liability: Please be advised, however, that section 13385 also authorizes the Regional Board, in its discretion, to assess up to \$10,000 for each violation. Furthermore, if referred to the Attorney General for prosecution, the Superior Court may assess up to \$25,000 per violation. In addition, the Regional Board may assess up to \$10 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons (or \$25 per gallon if assessed by the Superior Court). In due course, an administrative or judicial complaint will be issued to assess penalties for all the violations described in the NOV, in an appropriate amount, which will not be less than the mandatory minimum penalty of \$3,000 per violation required by section 13385.

Offer: To promote early settlement of administrative enforcement actions, the Regional Board hereby tenders this Conditional Early Settlement Offer. You are hereby informed that you may accept this offer, waive your right to a hearing, and pay the mandatory minimum penalty of \$12,000, for the relevant violations described in the NOV. In the event you elect to do so, subject to the conditions below, the Regional Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations described in the NOV. Accordingly, the Regional Board will forego issuance of a formal complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional penalties above the required mandatory minimum. To accept this offer, please complete and return the enclosed "Acceptance of Conditional Early Settlement Offer and Waiver of Right to Hearing."

Conditions: Federal regulations require the Regional Board to publish and allow the public 30 days to comment on any settlement of an enforcement action (40 CFR part 123.27(d)(2)(iii)). Upon receipt of your Acceptance and Waiver, the settlement will be published as required by law. If no comments are received within the 30-day period, you will be notified accordingly, and payment in the appropriate amount must be received within an additional seven (7) days. The \$12,000 penalty shall be to the "State Water Resources Control Board Cleanup and Abatement Account" or to a Supplemental Environmental Project (SEP) listed on the Regional Board-approved SEP list. The pre-approved SEP list is available at the following web site:

www.waterboards.ca.gov/losangeles/html/programs/enforcement.html

Following payment, the Regional Board will deem the matter to be final.

If, however, significant comments are received in opposition to the settlement, the matter may be set for a hearing before the Regional Board. In that event, you will be notified that this Offer and

your Waiver are withdrawn, you will be free to make any arguments as to any violations that you desire, and your agreement to participate in this proposed settlement will not in any way be binding against you. Additionally, staff will ensure that your agreement to participate in this conditional settlement will be noted in the record in mitigation of any fines or additional fines that may be recommended, and your payment will be credited accordingly.

Should you have any questions about this Conditional Early Settlement Offer, please contact Mr. Hugh Marley at (213) 620-6375 or Ms. Mercedes Merino at (213) 620-6369.

Sincerely,

Paula Rasmussen, Section Chief
Compliance and Enforcement